

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

**AMERICAN FUEL &
PETROCHEMICAL
MANUFACTURERS,**

Petitioner,

v.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, and
MICHAEL S. REGAN, in his official
capacity as Administrator, United States
Environmental Protection Agency,**

Respondents.

**Case No. 24-1272
Consolidated with 24-
1193, 24-1261, 24-1266,
24-1271**

**NONBINDING STATEMENT OF ISSUES OF
AMERICAN FUEL & PETROCHEMICAL MANUFACTURERS**

Pursuant to this Court’s Order of August 6, 2024, ECF # 2068525, Petitioner American Fuel & Petrochemical Manufacturers hereby submits the following Nonbinding Statement of Issues to be raised under its Petition for Review challenging the final rule of the U.S. Environmental Protection Agency, “Designation Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as CERCLA Hazardous Substances,” published in the Federal Register at 89 Fed. Reg. 39,124 (May 8, 2024):

1. Whether EPA's interpretation of the statutory standard for listing CERCLA Hazardous Substances is arbitrary and capricious, an abuse of discretion, or otherwise contrary to law.
2. Whether EPA's failure to provide adequate notice of and an opportunity to comment on statutory interpretations and significant documents relied upon by EPA to justify the Final Rule is arbitrary and capricious, an abuse of discretion, or otherwise contrary to law.
3. Whether EPA's failure to adequately consider all relevant factors, including all costs, is arbitrary and capricious or otherwise contrary to law.
4. Whether EPA's failure to provide a reasoned response to significant and specific concerns raised in comments on the impacts of the Final Rule is arbitrary and capricious or otherwise contrary to law.
5. Whether the Final Rule is arbitrary and capricious, or otherwise contrary to law.

Date: September 3, 2024

Respectfully submitted,

/s/ Brittany M. Pemberton

Brittany M. Pemberton
BRACEWELL LLP
2001 M Street N.W.
Suite 900
Washington, D.C. 20036
(202) 828-5800 (telephone)
(800) 404-3970 (facsimile)
Brittany.Pemberton@bracewell.com

Of counsel:

Richard S. Moskowitz
Tyler Kubik
American Fuel & Petrochemical
Manufacturers
1800 M Street, NW
Suite 900 North
Washington, DC 20036
(202) 457-0480 (telephone)
(202) 457-0486 (facsimile)
rmoskowitz@afpm.org
tkubik@afpm.org

*Counsel for Petitioner American Fuel
& Petrochemical Manufacturers*

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Appellate Procedure 25(d) and D.C. Circuit Rule 25(a), I hereby certify that I have this day caused the foregoing Nonbinding Statement of Issues to be delivered electronically through CM/ECF on all ECF registered counsel of record.

Date: September 3, 2024

Respectfully submitted,

/s/ Brittany M. Pemberton

Brittany M. Pemberton